

REMARKS

Claims 1-10 are pending in the application. The Office Action dated May 18, 2007 (the Action) rejects Claims 1-10 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. 2005/0283358 to Stephanick (the Stephanick CIP publication). Applicant submits that the portions of the Stephanick CIP publication cited in the Action are not prior art under 35 U.S.C. 102(e) with respect to the current application.

The current application is a national phase application with an international filing date of June 11, 2003 and claims priority to U.S. Provisional Application No. 60/393,905 filed July 3, 2002, and from European Patent Application No. 02388043.8 filed July 1, 2002. Support for the claims of the present application is provided, for example, in U.S. Provisional Application No. 60/393,905 that includes the same specification presented in the present application.

The Stephanick CIP publication was filed on August 26, 2005, which is after the effective filing date of the current application. The Stephanick CIP publication is a "continuation-in-part" of U.S. Application Serial No. 10/176,933 (filed June 20, 2002)(the "Stephanick parent application") and also claims priority to U.S. Provisional Application Serial No. 60/625,378 (filed November 5, 2004)(the "Stephanick provisional application").

Section 102(e) prior art includes "an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent." The only application in the Stephanick CIP publication chain of priority filed before the filing date of the current application is the Stephanick parent application. Therefore, only disclosures of the Stephanick parent application may be considered prior art under 35 U.S.C. 102(e). A copy of the Stephanick parent application (U.S. Patent Application Publication No. 2002/0196163) is enclosed. Moreover, an IDS citing the published Stephanick parent application is being filed concurrently herewith.

The Action relies on paragraphs 29-31 of the Stephanick CIP publication as allegedly disclosing the recitations of Claim 1-10. Applicant submits that the cited portions of the Stephanick CIP publication are clearly not disclosed in the Stephanick parent application. Therefore, these portions of the Stephanick CIP publication are not entitled to the June 20,

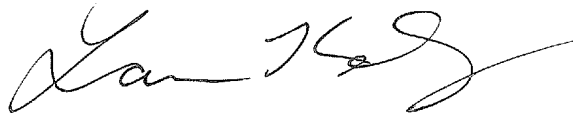
Attorney Docket No. 9342-12
Application Serial No. 10/519,522
Filed: August 10, 2005
Page 3

2002 priority date of the Stephanick parent application, and as such, cannot be prior art with respect to the current application under 35 U.S.C. 102(e).

For at least these reasons, Applicant requests that the rejections under 35 U.S.C. 102(e) be withdrawn. To the extent that the Stephanick CIP publication is relied on in any subsequent Official Action, Applicant respectfully requests that specific portions of the Stephanick parent application be pointed out because only the disclosure of the Stephanick parent application is entitled to a filing date that precedes the current application.

Accordingly, the rejection under 35 U.S.C. § 102(e) has been overcome. Applicant submits that the current application is in condition for allowance and the same is earnestly solicited. Should the Examiner have any matters outstanding of resolution, he is encouraged to telephone the undersigned at 919-854-1400 for expeditious handling.

Respectfully submitted,




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CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on July 24, 2007.


Laneisha C. Hayes
Date of Signature: July 24, 2007